



**To:** MLPA Comments, California Fish and Game Commission, and California Fish and Game Department

**From:** Howard Egan,  
Recreational Fishing Alliance (RFA), [www.fishpolitics.com](http://www.fishpolitics.com)

**Date:** March 19, 2006 (originally written October 21, 2005)

**Subject:** Comments regarding section 2857.c.2 of the MLPA – The question of Reserves for Every Habitat – Even those for which it makes no sense.

A question has arisen regarding what habitats must be captured in marine reserves. Specifically this question surrounds the take of pelagic and highly migratory species in marine conservation areas that otherwise afford complete protection of benthic species and habitats.

From a scientific basis, there is no serious contention that a marine conservation area in deep water (30-1000+ fathoms) that allows only extraction of HMS (salmon, tuna, etc) does not afford complete protection to the benthic marine ecosystem and species likely to benefit. This was corroborated at the benthic-pelagic linkages science workshop hosted by NOAA in Monterey, December 2005. The only question is whether the MLPA arbitrarily requires all depth regions and all habitat types be represented in marine reserves.

The pertinent sections of the act to consider are sections 2856 and 2857. The specific portion of the act that raises the question is 2857.c.2:

*Marine life reserves in each bioregion shall encompass a representative variety of marine habitat types and communities, across a range of depths and environmental conditions.*

This statement does **not say** *all marine habitat types and all depth ranges and environmental conditions shall be represented in reserves*. It leaves the determination of what spectrum of habitat types and depth ranges must be protected in reserves to the designers of the network. In this case the designers are the RSG, the BRTF, the Department, and ultimately the Commission.

It is clear that this sentence leaves a bit to be desired in terms of specificity. However, in order to identify the true requirements of this section the act as a whole must be considered. In fact it seems clear that 2857.c.2 is intentionally worded this way in order to avoid arbitrarily requiring reserves in habitat types and depth regions that would otherwise gain no additional benefits from a reserve rather than a conservation area.

In considering the act as a whole, Section 2856.a.2 helps identify ways to clarify 2857.c.2. Section 2856.a.2.A:

*Recommendations for the extent and types of habitat that should be represented in the MPA system and in marine life reserves. Habitat types described on maps shall include, to the extent possible using existing information, rocky reefs, intertidal zones, sandy or soft ocean bottoms, underwater pinnacles, sea mounts, kelp forests, submarine canyons, and seagrass beds.*

It is clear that the habitats, depth ranges and environmental conditions referred to in 2857.c.2 are to be *recommended* as specified here in 2856.a.2.A. The RSG and regional SAT can clearly make these recommendations, and propose networks based on these recommendations and completely satisfy the act without arbitrarily requiring reserves when conservations areas can equally protect benthic habitats.

An additional factor to consider specifically with respect to deep water habitats, is that conservation areas allowing only take of pelagics actually satisfy more of our regional objectives than do reserves. This is because in deep water benthic conservation areas can be crafted to satisfy all conservation objectives that a reserve satisfies, and the additional design guidelines, and objectives pertaining to effort shifts, allowing take of pelagics, and socioeconomic impact.

To even further highlight the intended flexible nature of section 2857.c, 2856.a.2.C states the following:

*(2) The master plan shall include all of the following components:*

*(A)...*

*(B)...*

*(C) Recommendations to augment or modify the guidelines in subdivision (c) of Section 2857, if necessary to ensure that the guidelines reflect the most up-to-date science, including, for example, recommendations regarding the minimum size of individual marine life reserves needed to accomplish the various goals set forth in Section 2853.*

Our conclusion is that there is no requirement to place a reserve in deep water merely for the sake of placing a reserve there when a conservation area will better achieve the regional goals and objectives.